

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE SEPTEMBER 11 LITIGATION : **SUPPLEMENTAL CASE**
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MANAGEMENT ORDER

21 MC 97 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Whereas a status conference was held on September 26, 2003 at which the Court discussed matters relating to the pleadings and discovery with counsel;

NOW, THEREFORE IT IS ORDERED THAT:

1. After the December 22, 2003 deadline for filing claims with the Victims' Compensation Fund, but no later than January 16, 2004, counsel who have filed multiple suits on behalf of the same individual plaintiffs shall file an Amended Complaint in the first suit filed on behalf of each such individual plaintiff. The Amended Complaint shall name all defendants and incorporate all causes of actions alleged in each suit filed on behalf of that individual plaintiff and the Amended Complaints will be deemed filed *nunc pro tunc*. Upon filing the Amended Complaint, all Complaints filed on behalf of the same individual plaintiff will be superceded.

2. Counsel for plaintiffs naming "John Doe" defendants shall have voluntarily dismissed all claims against such defendants on or before November 7, 2003. With regard to the Lewin action (03 Civ 6726), and the naming of Virginia Buckingham and Joseph Lawless as

individual defendants in the action, the parties shall provide the Court in a joint letter on or before November 7, 2003 with supporting and opposing arguments for continuing the claims against these individual defendants.

3. Following the expiration of the New York statute of limitation for wrongful death actions arising out of the September 11, 2001 terrorist attacks (presently March 10, 2004), Plaintiffs' Liaison Counsel shall amend the Master Complaints and their Appendices to reflect all additional defendants named and additional causes of action alleged since the original Master Complaints and Appendices were filed. In the interim, not later than January 30, 2004, the Appendices to the Master Complaints shall be amended to reflect cases filed to date, and plaintiffs who have dismissed their actions. The Amended Master Complaints and Appendices shall be served on or before March 31, 2004. Answers to the Amended Master Complaints shall be served and filed on or before April 30, 2004.

4. The time for defendants to Answer the individual Complaints not identified in the current Appendices to the Master Complaints (or Answer the individual Complaints previously identified in the Appendices to the Master Complaints but which have been amended) is hereby stayed until after plaintiffs amend the Master Complaints and Appendices pursuant to paragraph 3 of this Order. In accordance with the terms of my January 22, 2003 Order, defendants shall serve Answers or Notices of Adoption of the Answers to the Amended Master Complaints in response to all individual Complaints on or before May 15, 2004.

5. Within 60 days of service of process, but in no event prior to November 7, 2003,

all defendants thus served shall serve on Plaintiffs' Liaison Counsel and file representations disclosing, or copies reflecting, the terms of all applicable insuring agreements and the amounts of their insurance. Defendants shall also produce the terms of any applicable exclusions or limitations provisions by said date.

6. The deadline for defendants to serve cross-claims and third-party claims is hereby extended to June 1, 2004.

7. By November 7, 2002, counsel for the Port Authority of New York and New Jersey (Port Authority) shall submit an affidavit identifying those actions against the Port Authority in which plaintiffs have not filed a Notice of Claim or have filed a defective Notice of Claim and a proposed Order requiring those plaintiffs to show cause before a certain date why their Complaints should not be dismissed.

8. Paragraph No. 4 of the Court's Supplemental Case Management Order dated February 3, 2003, is hereby amended to provide that defendants (other than Airport Operator and Non-Carrier defendants that are engaged in separate limited discovery) shall have until November 7, 2003 to produce all documents, and answer any interrogatories, to which no objection has been raised and which do not include Sensitive Security Information (SSI).

9. Defendants who were parties to this action as of the Case Management Conference held on September 26, 2003 (other than Airport Operators and Non-Carrier defendants which are engaged in separate limited discovery) shall produce to the Transportation Security Administration no later than November 7, 2003 all documents containing SSI

responsive to the eight categories of plaintiffs' "first wave" discovery documents (as outlined in Plaintiffs' Liaison Counsel's March 24, 2003 letter) and to which no discovery objections other than SSI have been raised.

10. Hereafter, the parties shall serve copies of all documents filed with the Court or submitted to Chambers on the United States Attorney's Office, 33 Whitehall Street, 8th Floor, New York, New York 10004, Attention: AUSA Sarah S. Normand, Esq.

11. The next status conference will be held on February 2, 2004 at 10:00 a.m.

SO ORDERED.

Dated: New York, New York
October 24, 2003

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ALVIN K. HELLERSTEIN
United States District Judge